

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN, DIVISION

In the Bankruptcy Matter of:

Brenda P. Rowe
Leoncio Escobia

Debtors

Bankruptcy No. 15-27066-beh
Judge Beth E. Hanan
Chapter: 13

OBJECTION TO EXEMPTIONS

NOW COMES LVNV Funding, LLC (hereinafter “Movant”), through its attorney, Josephine J. Miceli of Johnson, Blumberg & Associates, LLC, and states as follows:

1. The above-captioned Chapter 13 case was filed on June 15, 2015.
2. The Movant, a party in interest, holds a judgment Lien dated January 28, 2008 on the property located at W348N5133 Elm Ave, Okauchee, Wisconsin 53069 (the “Property”), in the amount of \$10,582.51. A copy of the Judgment is attached hereto as Exhibit A.
3. The Debtors' plan provides no treatment for Movant’s claim.
4. At the time of filing of their Petition, the Debtor filed an original Schedule C in which they claim a homestead exemption in the amount of \$84,473.18 pursuant to Wis. Stat. § 815.20.
5. Wis. Stat § 815.20 provides an exemption of only \$75,000.00. Per the statute, each spouse may claim a \$75,000.00 exemption if the land is owned “by husband and wife jointly or in common or as marital property.”
6. Per Wisc. Stat. § 766.31 (6)(a), property owned at the time of marriage is the individual property of the owning spouse; it is not marital property. Per Wisc. Stat. § 766.31 (7)(a), property acquired by a spouse by a disposition at death of a 3rd person to one spouse and not to both is also individual property.

7. The Property was inherited by Brenda P. Rowe solely, and on information and belief, before the date of her marriage. A copy of the Deed from the estate of Gordon L. Rowe to "Brenda P. Rowe, a single woman" is attached hereto as Exhibit B. The Property is therefore individual property under Wisc. Stat. § 766.31.
8. A search of the records of Waukesha County, WI did not reveal any deeds transferring an interest in the Property from Brenda P. Rowe to Leoncio Escobia. The property is therefore also not owned jointly or in common, but is the sole property of Brenda P. Rowe.
9. The maximum homestead exemption that the Debtors may claim on the Property is \$75,000.00.

WHEREFORE, LVNV Funding, LLC prays for an Order reducing the Debtors' homestead exemption to \$75,000.00 and for other relief as the Court deems just.

/s/ Josephine J. Miceli

Josephine J. Miceli, ARDC #6243494
Attorney for LVNV Funding, LLC

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NOTICE:

THIS LAW FIRM IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION
OBTAINED WILL BE USED FOR THAT PURPOSE

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CERTIFICATE OF MAILING

TO: Brenda P. Rowe, W348N5133 Elm Ave , Okauchee, WI 53069
Leoncio Escobia, W348N5133 Elm Ave , Okauchee, WI 53069
Mary B. Grossman, Chapter 13 Trustee, P.O. Box 510920, Milwaukee, WI 53203
Nathan E. DeLadurantey, 735 W. Wisconsin Avenue, Suite 720, Milwaukee, WI 53233
Office of the U.S. Trustee, 517 E. Wisconsin Ave., Rm. 430, Milwaukee, WI 53202

I, Josephine J. Miceli, an attorney certify that I served the attached objection by mailing a copy to the Debtors at the address listed above by depositing the same in the U.S. mail, first class, postage prepaid at 230 W. Monroe St., Chicago, IL 60606 on or before 5:00 p.m. on August 13, 2015. The remaining parties were served by the CM/ECF electronic noticing system.

/s/ Josephine J. Miceli

Josephine J. Miceli, ARDC #6243494
Attorney for LVNV Funding, LLC

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